

Matter of: Precision Metal Products, Inc.

File: B-261680

Date: September 8, 1995

Sam Zalman Gdanski, Esq., for the protester.
Marvin G. Spallina, for Pratt & Whitney, an interested party.
Milton D. Watkins, Esq., and Richard P. Castiglia, Jr., Esq., Department of the Air Force, for the agency.
M. Penny Ahearn, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly denied protester's source approval request for flight critical part, thereby precluding protester from competing, is denied where solicitation was restricted to qualified sources, which were actual manufacturers of the part, and agency reasonably concluded that protester's limited experience in the manufacture of similar parts, and the technical data submitted in that regard, was insufficient to demonstrate that the firm could manufacture the part in accordance with the strict quality control required.

DECISION

Precision Metal Products, Inc. protests the Department of the Air Force's refusal to approve it as an alternate source, and the award of a contract to Pratt & Whitney (the original equipment manufacturer (OEM)), under request for proposals (RFP) No. F34601-95-R-53025, for 3,018 two-blade sets applicable to the TF-33/TF-5/TF-9/TF-102 engines for the C-18/C-135 aircraft.¹

We deny the protest in part and dismiss it in part.

The blades are critical rotating engine components, whose reliability depends on strict quality control, and failure

¹The two-blade sets, part number (P/N) 430241, are first stage compressor rotor blades and consist of two individual blades of P/N 430401.

of which can lead to loss of aircraft. The Air Force determined that the government lacked the manufacturing knowledge or technical process data essential to maintaining the quality control of the part and which would permit a full and open competitive procurement. The RFP therefore was restricted to qualified sources. Due to the complexity and criticality of the part, the agency determined that only actual manufacturers that have successfully completed all testing required by the OEM (Pratt & Whitney) could be considered approved sources; this resulted in two approved sources--Pratt & Whitney and Airfoil Textron, Inc., a division of Compressor Components. The qualification requirements, referenced in the solicitation, advised offerors that to be considered for award, they must (1) be an approved source; (2) submit evidence of having satisfactorily supplied the required part directly to the government or to the OEM; or (3) submit other documentation such as engineering data and quality assurance procedures that would allow the Air Force to determine the acceptability of the part offered.

Precision Metal submitted a source approval request (SAR), seeking qualification as an alternate approved source on the basis that it had manufactured and/or forged blades similar to those solicited.² According to the protester, it had (1) manufactured similar blades, P/N 9531M21P04, for the General Electric Company (GE) F-110 engine, and (2) forged similar blades, P/N 694301, for the Pratt & Whitney TF-33 engine for Ex-Cell-O Corporation (now known as Airfoil Textron, one of the two approved sources here). The protester submitted a data package with its approval request.

The Air Force denied Precision Metal's source approval. The agency determined that the firm's involvement in the manufacture of blades similar to the ones solicited was not acceptable evidence of the firm's capability to produce the blades under this solicitation, and that there was insufficient technical data to evaluate the firm as an alternate source based on similar manufacture. The Air Force's inquiry revealed that while Precision Metal had supplied forgings for GE's F-110 first stage blade, it was never an approved source for the manufacture of the blade. Moreover, the agency determined, even if Precision Metal had manufactured the GE blade, that alone would not qualify the firm to provide the Pratt & Whitney blade here, since GE and Pratt & Whitney utilize different manufacturing processes and process controls.

²Manufacture of the blades includes forging, machining, and post-machine processing.

The Air Force also determined that the protester's claimed forging of the similar Pratt & Whitney blade did not warrant approval; forging alone did not qualify as manufacturing and, in any event, Precision Metal provided no evidence that its performance under that contract included the technical process data essential to maintaining the quality of the part. In this regard, the Air Force engineer specifically determined, and notified Precision Metal by memorandum, that he lacked sufficient technical process data to evaluate the firm's "proposed forging processes, subsequent changes to processes, and manufacturing nonconformances during all stages of the manufacturing process (raw material, ingot, forging, and finished product)." According to the engineer, the missing data consisted of (1) "the design data or the design margins for these fan blades," (2) "all the particulars of the Pratt and Whitney substantiation [i.e., the manufacturing processes and quality assurance data] for these types of items," and (3) "the history of waivers and deviations for these forgings and finished blades." Without this information, the engineer stated that "the potential failure of a blade and subsequent liberation of fragments remains an unacceptable risk." The engineer concluded that "[f]or the foreseeable future, only those manufacturers that have been approved by the OEM as a forging source . . . and have manufactured that forging on a production basis, will be considered as an approved forging source for a fan blade" and "only those manufacturers that have final machined this blade will be acceptable as alternate sources."

The agency rejected Precision Metal's offer as technically unacceptable, since the firm did not qualify as an approved source for the part, and made award to Pratt & Whitney, the sole offeror. The protester submitted an agency-level protest against the denial of its SAR, which the agency denied. This protest to our Office followed.

Precision Metal contends that the Air Force determination that it does not qualify as an approved source lacked a reasonable basis. The protester maintains that its experience in forging and manufacturing similar blades was sufficient for approval as an alternate source. It submits evidence that it was in fact an approved source for the similar GE blade, and contends that the technical process data for the similar Pratt & Whitney blade was not necessary for the evaluation of the SAR, since it (1) "anticipates no forging process modifications to manufacture P/N 430401 [the part number solicited here] from the Pratt & Whitney-approved forging process for P/N 694301," (2) "will not request waivers and deviations and . . . its parts would be manufactured through exactly the same process as the prior TF-33 blades were produced," and (3) "certifies that there will be no nonconforming blades shipped in performance of any resultant order for this component."

Applicable regulations permit agencies to limit competition for the supply of parts necessary to assure the safe, dependable, and effective operation of government equipment. Department of Defense Federal Acquisition Regulation Supplement (DFARS) § 17.7501(b)(2). Under these circumstances, competition may be limited to the original manufacturer of the equipment or other sources that have previously manufactured or furnished the parts so long as the action is justified. Id.; see also Hill Aviation Logistics, 67 Comp. Gen. 224 (1988), 88-1 CPD ¶ 140. When a contracting agency restricts contract award to an approved product, and imposes a qualification requirement, as here, it must give unapproved sources a reasonable opportunity to qualify. 10 U.S.C. § 2319 (1994); Vac-Hyd Corp., 64 Comp. Gen. 658 (1985), 85-2 CPD ¶ 2; Advanced Seal Technology, Inc., B-249855.2, Feb. 15, 1993, 93-1 CPD ¶ 137. We will not disturb an agency's technical determination concerning the acceptability of alternate products and the qualifications of offerors unless it is unreasonable. Electro-Methods, Inc., B-255023.3; B-255023.4, Mar. 4, 1994, 94-1 CPD ¶ 173.

The critical nature of the blade sets clearly brings the procurement within the scope of DFARS § 217.7501; the item is a high rotational component, the failure of which can be catastrophic and lead to loss of aircraft, and the Air Force determined that the reliability of the item is dependent on "strict quality process control" which in turn depends on unique manufacturing knowledge or technical process data that is not economically available to the agency.³

While Precision Metal has been involved in the manufacture of similar blades, the firm has not manufactured the actual solicited part or met all testing requirements established by the OEM for the solicited part. The GE and Pratt & Whitney blades on which Precision Metal's SAR is based are part numbers different from the one here and, in any case, there is no evidence that either of these blades met the required OEM testing for the blade solicited. Since Precision Metal also was unable to furnish the technical manufacturing process control data the agency is missing, the agency reasonably determined that the firm had insufficient manufacturing involvement with the current

³To the extent Precision Metal takes issue with the agency's determination in this regard, the protest is untimely; arguments based on alleged solicitation improprieties must be raised before the closing time for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1995).

part, and had submitted insufficient data, to warrant qualification as an approved source.⁴

Precision Metal's blanket statements that it will manufacture the blades in compliance with the required processes, not request waivers and deviations, and not ship nonconforming blades are not a basis for compelling the agency to grant it approved source status. See Pacific Sky Supply, Inc., 64 Comp. Gen. 194 (1985), 85-1 CPD ¶ 53.

The protester maintains that the Air Force's assertion of a lack of design data or margins for the fan blade is not a legitimate concern; it cites the fact that the Air Force allowed the blades to be weld repaired as evidence that there are no significant design concerns. Under our Bid Protest Regulations, arguments such as this must be raised within 10 working days after the basis of the protest is known or should have been known. 4 C.F.R. § 21.2(a)(2); Palomar Grading and Paving, Inc., B-255382, Feb. 7, 1994, 94-1 CPD ¶ 85. The basis for this argument is the agency engineer's April 19, 1995, SAR disapproval memorandum, which was faxed to the protester on May 15. Since the argument was first raised on August 2, in the protester's comments on the agency report, it is untimely and will not be considered.

The protest is denied in part and dismissed in part.

\s\ Ronald Berger
for Robert P. Murphy
General Counsel

⁴For example, as previously mentioned, the protester has not provided evidence that its part meets all testing required by the OEM. Nor has the protester provided assurances that it will use only qualified subcontractors.